

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI  
ABERDEEN DIVISION**

**SCHILLING FOODS, LLC**

**PLAINTIFF**

**VS.**

**CASE NO. 1:17CV201-MPM-DAS**

**FIRST DATA CORPORATION;  
FIRST DATA MERCHANT SERVICES LLC;  
CITICORP PAYMENT SERVICES, INC.; AND  
ABC CORPORATIONS 1-10**

**DEFENDANTS**

**RESPONSE TO DEFENDANTS FIRST DATA CORPORATION'S,  
AND FIRST DATA MERCHANT SERVICES LLC'S  
MOTION TO DISMISS**

COMES NOW Plaintiff, Schilling Foods, LLC, by and through counsel, and respectfully requests that the Court deny the Motion to Dismiss filed by Defendants First Data Corporation and First Data Merchant Services LLC. In support, Plaintiff relies on the following:

- 1) The arguments and authorities set forth in its accompanying Memorandum Brief;
- 2) October 18, 2016 email from Jill Dokson, Senior Counsel First Data Corporation, to David Houston, counsel for Plaintiff, a true and correct copy of which is attached hereto as Exhibit "A"; and
- 3) Merchant Card Processing Statement, a true and correct copy of which is attached hereto as Exhibit "B".

RESPECTFULLY SUBMITTED, this the 8<sup>th</sup> day of January, 2018.

SCHILLING FOODS, LLC

By: /s/L. Bradley Dillard  
DAVID W. HOUSTON, III (MSB #2695)  
L. BRADLEY DILLARD (MSB #10114)  
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**CERTIFICATE OF SERVICE**

I, L. Bradley Dillard, one of the attorneys for Plaintiff, do hereby certify that I have this date forwarded, via electronic filing, a true and correct copy of the above and foregoing *Response to Defendants First Data Corporation's and First Data Merchant Services LLC's Motion to Dismiss* to the following ECF participants:

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DATED, this the 8<sup>th</sup> day of January, 2018.

/s/L. Bradley Dillard  
L. BRADLEY DILLARD